

But 16 THE TRIAL OF

JAMES VANCE, ESQUIRE,

One of the High Sheriffs of the City of Dublin,

ON

Thursday the 25th Day of February, 1790.

AT

The Commission of *Oyer* and *Terminer* in his Majesty's
Court of King's Bench,

BEFORE

The Honourable Richard Power, Esq.

SECOND BARON OF THE COURT OF EXCHEQUER,

FOR

Aiding and assisting one Joseph Stuart to Slew
and Murder

FARREL REDDY.

DUBLIN:

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M.D.C.C.XC.

Price a British Shilling.

MAR 2 1909

INTRODUCTION.

IT appears necessary to say a few words by way of introduction to the following sheets; they will serve to account for the evidence on the part of the prosecution not having been called upon to state the whole progress of that supposed outrage, which so hurt the humanity of some gentlemen warmly interested for the sufferings of the brute, and too careless about the lives of men.

The learned Counsel for the Crown thought, upon looking into their briefs, that the strongest chain of evidence seemed connected with the death of Farrel Reddy; they neither wished to detain the Court, nor an anxious audience, by entering into the state in which the Bull-baiters were found, at the time of the Sheriff's arrival among them with a military force; they thought, and their opinion was supported by the charge from the Bench, that an apparent, absolute necessity, must

must be proved, before the killing any person became justifiable. Men in all times have differed in their ideas of that apparent, absolute necessity, which may excuse the taking the life of a fellow-creature who is in their power. The soldiers, when St. Paul was shipwrecked on Melita, would have put him to death lest he should escape; but the Centurion, more humane, saw not the same necessity. One General has cut the waistband of the breeches of his prisoners to prevent their escape—another has cut their throats. The law of England has been declared concerning the time of that apparent, absolute necessity, in the following unequivocal terms. “ The law permits you not
 “ to kill him that assails you when you draw
 “ near your last refuge, because you foresee that
 “ you shall be driven to it; but you must for-
 “ bear till that necessity be at its full period; for
 “ till then it may be otherwise prevented or re-
 “ medied.”* The serjeant indeed, if his evidence deserved credit, did swear that he believed the magistrates and party would have been ill treated, had they not fired upon the people; but he proved no kind of actual injury done; and he closed his evidence by swearing, that he did not know whether any person had been killed on that day, nor had he made any enquiry at all about the matter, from that time to this. How far this apparent, absolute necessity, was proved by others, the reader will judge for himself: The Jury declared their opinion, by a general verdict of
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* Hobart's Rep. p. 159.

of acquittal. It is a glorious privilege of every British subject, to look his twelve Judges in the face, and that they should be forced to look upon the prisoner, while they pledge themselves to the Almighty to do him justice: May every criminal cause be thus tried! for those which are otherwise judged, derogate from the glory of the constitution.

On the subject of Bull-baiting simply, on which the Bar seemed divided in their opinions; under the correction of those who have made law their study, I shall take the liberty of throwing out my ideas. The learned Judge allowed the possibility of an innocent Bull-bait; but he likened it to that barbarous, that cowardly practice, of throwing at cocks upon Shrove Tuesday: an inhuman, an unmanly sport. At Cambridge there were constant Bull-baitings, under the very eye of the Vice Chancellor, and all the Doctors of Law and Divinity; and Paris, that seat of elegance, had her *Combats du Taureau avec de dogues Anglois*, Bull-baitings, which were attended by some of the first nobility of that kingdom.

It may not be amiss here to state what a Bull-bait is; an amusement I am not ashamed to say I have frequently assisted at in the countries above mentioned.

A Bull being procured, and the wilder he is the better sport, he is fastened to a stake by a rope
about

about ten yards long, in any commodious place ; the spectators make a ring round him, the hardiest in the front, as their duty is, when a dog is thrown up into the air, to run within the ring, and by catching him to prevent his receiving any injury from the fall ; the Bull's horns seldom pierce the skin of the dog, but it frequently happens that the men are hurt. Each person possessed of a dog brings him in a chain : there are never more than two, and frequently only one dog let on the Bull at a time. Should a dog attack the Bull any where but in the front, he is taken up and turned out of the ring. That dog acquires the greatest favour, who most frequently pins the Bull, that is, seizes him by the upper lip, between the nostrils ; and that man who has caught the most dogs, has plainly been the most intrepid. Let any person draw a parallel between this amusement and Hare-hunting.

As to numbers creating a riotous tumultuous meeting, I have understood, that unless there are more persons collected than are requisite to carry any act into execution ; or are armed in an unnecessary, unusual manner ; or use threats in its execution ; they ought not to be proceeded against as a riotous tumultuous meeting. In this case the object was to bait a Bull, and for this numbers are necessary ; by numbers a Bull may be overpowered, and kept in a confined spot, or destroyed, should he break loose from the stake, when, from a few, he must inevitably escape. But in this case the Bull-baiters were guilty of a trespass ; the very trespass proves their
their

their intention to preserve peace and good order ; to avoid giving offence to modern sensibility—an unnatural, fickle sensibility, that is shocked at the hardy sports of the vulgar, but is callous to the deeper wound which society suffers, when penalty precedes the trespass, and punishment the crime. —These persons had passed by a lot of ground with a wall round it, full spacious enough for their purpose, next adjoining to the lot they broke into, because it had no gates ; because they had no manner of shutting themselves in, from the possibility of doing any injury to the public : yet if they were guilty of an unlawful act in their outset, was it perfectly legal of the Alderman and Sheriff to force the same gates, to scale the same walls, attended by an armed force, together with one, the only solitary police constable, who, by the evidence of Mr. Alderman Carleton, one of the Divisional Justices, could be found in Dublin ? How did they know that the proprietor had not consented, or been paid for the use of the field ? The woman who had the care of it did not complain of these trespassers, but perhaps it was her intention to do so, and that the hour and half, during which she swore she was absent from the field, after having escaped with her life, was spent in a vain search after some of that city guard, whose vigilance is so highly praised, and whose services are so amply rewarded. As the object of the Magistrates was declared by themselves, to have been to prevent the Bull baiting, and that it was with that view only they had taken the prisoners, and by no means in consequence of their
being

being a part of that tumultuous assembly, which had alarmed Mr. Patrick, and of which he had given information, I must conclude, that both parties were equally guilty of the original trespass. The Magistrates, at the expence of a few lives preserved their prisoners, who were afterwards tried and acquitted by their country; the Bull-baiters took the Bull further into the country, and having baited him, returned him to the owner

I shall conclude with the opinion of one of the most constitutional Lawyers now at the English Bar, which I applied for, as soon as I was informed of the circumstances of this case. The necessity for publications of this sort appearing immediately renders it impossible to receive that gentleman's permission to make it public. I hope I am not guilty of imprudence in thus giving it *entire* to the world, altho' from the above mentioned motive I have suppressed his name: indeed its perfect coincidence with the charge delivered from the Bench, seems to destroy the only point of delicacy by which it might have been withheld.

“ Where multitudes illegally assemble, and
 “ commit acts of violence to the persons or prop-
 “ erties of others; not only magistrates, but pri-
 “ vate individuals, may repel force by force; this
 “ became necessary in London, in the year 1780,
 “ when, without waiting for the forms of law, by
 “ the reading of the Riot Act, magistrates took
 “ upon them to command the military to fire upon
 “ the

“ the rioters ; and individuals, in defence of their
 “ possessions, destroyed the felons who attacked
 “ and invaded them. But such proceedings can
 “ only be vindicated by the strong necessity,
 “ which, in the above mentioned instance, pro-
 “ duced them ; and they who venture upon them,
 “ must take care that their acts do not step beyond
 “ the necessity, by which they can alone be jus-
 “ tified.

“ Where persons assemble, in the manner stated
 “ in this case, it may be, (and I take it for granted,
 “ is) the duty of the civil magistrate to disperse
 “ them, and to secure offenders ; and for that
 “ purpose he may call for military aid ; but upon
 “ such an occasion, mere disorder and tumult,
 “ though in disobedience to the laws of police,
 “ if accompanied with no dangerous violence
 “ to the persons or properties of individuals, will
 “ not justify the civil magistrate to consider such
 “ persons as out of the protection of the law, so
 “ far as to be the objects of military execution.

“ To apply these principles to the facts stated
 “ in the case :—If the Sheriff, being only followed
 “ by boys or unarmed men, hooting, and only
 “ insulting his dignity, *but without offering dangerous*
 “ *violence to him or those under his protection or com-*
 “ *mand,* commanded the soldiers to fire upon
 “ them, *instead of securing them for civil punishment,*
 “ he must, upon every principle of English law,
 “ be responsible for all the consequences, though
 “ not within his contemplation when he gave the
 “ order

" order; but if, in the manner stated in this case,
 " he ordered the soldiers to take aim at an individual,
 " dual, who had not, in his view, mixed himself
 " with the resistance offered to his authority; the
 " death of that individual is at his door, and he
 " is guilty of his murder.

" If the Jury, however, should see reason to
 " impute his conduct to fear, confusion, or sudden
 " agitation, arising from the consequences of a
 " pursuit cast upon him by public duty, they might
 " acquit him; for there is no such thing as murder
 " separated from the wicked intent, which it
 " is the province of a Jury to find, or to negative
 " the existence of, by their verdict of conviction
 " or deliverance."

The reader of the following sheets will decide, whether Mr. Vance grounded his justification upon the exigency of the moment, or his being, with unwilling mind, oppressed by the weight of a duty undesired and unsought for; he has been acquitted by his country, and bold would be that man who dared to call him guilty. The just proportion between crimes and punishments is so ill regulated, that where some sort of adequate equalization does not take place between them, the law becomes impotent and inactive; and because a man may not merit the most rigorous punishment which the law can inflict, he, on this account, is free and spotless in the eye of the law, from all offence in the descending scale of criminality. Law has not settled the proper gradation of crimes;

public

public opinion, and private reflection, supply this notorious insufficiency. If then this man has any consciousness of official ignorance or incapacity, posterior to the voluntary assumption of a magistracy which made him guardian of the city and the citizens; if he be conscious of any *indiscreet* use of discretionary power, or any precipitate and passionate transgression of the bounds marked out by just necessity; what shall he look to? Let him look to the aged father lamenting the loss of his son, the comfort and support of his years: let him look to those who mourn in silence, the premature death of their relations. Of small moment may the loss of a few lives, in the streets of this crowded metropolis appear, to the man and the magistrate; but to some, this loss is measureless and irreparable.

I cannot conclude these lines, without requesting the reader would view them with candour; and above all, acquit me of the most distant intention of offending the worthy Judge who presided at the trial; whose clear, concise, and constitutional charge to the Jury, must create respect and honour; whilst the benevolent manner in which he expressed himself concerning the innocent amusements of the people, and their right to indulgence in them, excited the love and esteem of his audience.

ARCH. HAMILTON ROWAN.

Racoffey, March

9, 1790.

The

The following Advertisment having appeared in the public prints, it is thought proper to reinsert it here.

TO THE P R I N T E R.

S I R,

THE frequent and public mention of a Subscription for the purpose of prosecuting Mr. Sheriff Vance, seems to demand the following Explanation from me, to the Public.

I was in the country, where I received letters, requesting me to assist at a meeting of the inhabitants of St. Mary's Parish, in which my mother lives, for the purpose of enquiring, how so many citizens had met with their deaths, and others had been wounded on that unfortunate day, the 26th of December, 1789. I am ashamed to acknowledge, that my conduct was guided by prudence, in contradiction to a conviction of the propriety of the measure, and that I did not attend that meeting.—I did not doubt but the business would find abler advocates, and I feared, lest my attendance might be misconstrued into a vain attempt at popularity, particularly as my name had already been obtruded, perhaps, too often on the public. Shortly after this time, I came to town, when a few respectable Citizens called on me in Dominick-street; they requested me to undertake the conduct of a legal investigation of this business, which, they said, they had every reason to believe would be supported by an ample Subscription from their Fellow Citizens. I expressed my satisfaction at the matter being thus taken up; I told them they might depend upon my utmost assistance. A Paper, of which a Copy follows this Narrative, was signed by the nearest Relations or Friends of the unfortunate Sufferers, then in Dublin. I set my name down, with a subscription of 10 guineas, observing to those gentlemen, that if I was to receive and apply those subscriptions which might be collected, I must insist that no money should be received from any person, who did not at the same time countenance

countenance the investigation by giving their names. On the day of the prosecution the subscription naturally closed : I found 48 names, whose subscriptions, exclusive of my own, amounted to 49l. 15s.—the bill of costs amounts to 117l. 5s. 3d. which I have paid*.

From this statement, and from the honourable mention made of this subscription by the learned Judge, the Public will decide, whether it deserves those insinuations which dropped from one of the Counsel for the Prisoner, and certainly are not confined to the Four Courts, to discredit the prosecution.

ARCH. HAMILTON ROWAN.

" Whereas Mahaffey, Byrne, Kegan, and Reddy, were killed by a party of Soldiers, under the command of Mr. Sheriff Vance and Mr. Alderman Carleton, in the streets of Dublin, on the 26th of December, 1789: and whereas we, their relations and friends, are all of that rank in life which precludes us from supporting the expences attending the investigation of this affair, (amounting by estimate to about 100 guineas), we do request the assistance of those Persons who think the Death of a Fellow-citizen ought to be inquired into.

Signed,

THOMAS MAHAFFEY, father of James Mahaffey,
bricklayer.

JAMES BYRNE, uncle to John Byrne, baker.

CATHERINE DORAN, aunt to Patrick Regan,
washer-woman.

ROSE BRANAGAN, for Farrel Reddy, car-maker.

* Since the original publication of this advertisement, further expences have occurred, which have raised the amount to the sum of 130l. and upwards.

On Saturday the 20th of February, 1790, the Commissioners having opened the Court, the following Gentlemen were called and sworn of the Grand Jury :

THOMAS TWEEDY, } Foreman.
Haberdasher,

William M^r Kenzie, Bookseller.
William Keen, Goldsmith.
Stephen Gordon, Ironmonger.
John Ferns, Wine Merchant.
Peter Kelly, Apothecary.
James Fawcitt, Woollen-draper.
John Farrange, Merchant.
Hygate Boyde, Wine Merchant.
George Tinkler, Paper-stainer.
John Norton, Woollen-draper.
Edward Druit, Merchant.
William Speer, Apothecary.
Henry Clements, Grocer.
John Campbell, Merchant.
Frederick Guest, Hatter.
Robert Law, Grocer.
Francis Hamilton, Sadler.
George Paine, Haberdasher.
John Minchin, Woollen-draper.
Joseph Pemberton, Cutler.
Charles Williams, Apothecary.
David Weir, Merchant.

The following Bill of Indictment was then sent up to the Grand Jury.

*County of the City of Dublin,
to wit.*

TH E jurors for our Lord the King upon their oath present and say, that James Vance late of the city of Dublin, Esquire, John Carleton late of the same city, Esq; John Patrick late of the same city, merchant, James Jones late of the same city, soldier, Thomas Hamilton late of the same city, soldier, Joseph Stuart late of the same city, soldier, John Stowe late of the same city, soldier, William Grovner late of the same city, soldier, Thomas Short, otherwise John Short late of the same city, soldier, Robert Monk late of the same city, soldier, James Moore late of the same city, soldier, William Smith, otherwise Samuel Smith late of the same city, soldier, Thomas Saunders late of the same city, soldier, Joseph Dann late of the same city, soldier, Richard Collingwood late of the same city, soldier, James Stokesbury late of the same city, soldier, James Boon late of the same city, soldier, and William Cumberland Shea late of the same city, yeoman, with divers other persons to the jurors at present unknown, not having the fear of God before their eyes, but being moved and seduced by the instigation of the devil, on the 26th day of December, in the thirtieth year of the reign of our sovereign Lord George the third, now King of Great Britain, France and Ireland, defender of the faith, and soforth, with force and arms at Abbey-street, in the city of Dublin, aforesaid, in the county of the said city, in and upon Farrel Reddy, in the peace of God and a subject of our Lord the King within this land of Ireland then and there being, wilfully, feloniously, and of their malice prepensed, did make an assault; and the said Joseph Stuart a certain gun of the value of five shillings then and there charged with gun-powder ond ane leaden bullet, which gun he the said

said Joseph Stuart in his right hand had and held against
 and upon the said Farrel Reddy, then and there wilfully,
 traiterously and of his malice prepensed, did shoot and
 discharge, and that the said Joseph Stuart with the
 leaden bullet aforesaid, out of the gun aforesaid, then
 and there by force of the gun-powder aforesaid, shot
 and sent forth as aforesaid, the aforesaid Farrel Reddy,
 in and upon the belly of him the said Farrel Reddy, then
 and there with the leaden bullet aforesaid; out of the gun
 aforesaid, by the said Joseph Stuart as aforesaid, shot,
 discharged, and sent forth, wilfully, traiterously, felo-
 niously, and of his malice prepensed, did strike, pene-
 trate and wound, giving to the said Farrel Reddy then
 and there with the leaden bullet aforesaid, so as aforesaid
 shot, discharged and sent forth out of the gun aforesaid,
 by the said Joseph Stuart, in and upon the belly of him
 the said Farrel Reddy, one mortal wound of the depth
 of four inches, and of the length of half an inch, of
 which said mortal wound the aforesaid Farrel Reddy then
 and there instantly languished, and languishing did live
 from the said 26th day of December, in the said thirtieth
 year of the reign of our said Lord the King, until the
 27th day of December then next following, on which
 said 27th day of December, in the said thirtieth year of
 the reign of our said Lord the King, at Jervis-street in
 the city of Dublin aforesaid, in the county of the said
 city, he the said Farrel Reddy died, and that the afore-
 said James Vance, John Carleton, John Patrick, James
 Jones, Thomas Hamilton, John Stowe, William Gover-
 nor, Thomas Short, otherwise John Short, Robert Monk,
 James Moore, William Smith, otherwise Samuel Smith,
 Thomas Saunders, Joseph Dann, Richard Collingwood,
 James Stokesbury, James Boon, and William Cumber-
 land Shea, then and there wilfully, traiterously, feloni-
 ously, and of their malice prepensed, were present, aid-
 ing, helping, abetting, comforting, assisting and main-
 taining the said Joseph Stuart in the treason and murder
 aforesaid, in manner and form aforesaid to do and com-

mit. And so the jurors aforesaid upon their oath aforesaid, do say that the said Joseph Stuart, James Vance, John Carleton, John Patrick, James Jones, Thomas Hamilton, John Stowe, William Governor, Thomas Short, otherwise John Short, Robert Monk, James Moore, William Smith, otherwise Samuel Smith, Thomas Saunders, Joseph Dann, Richard Collingwood, James Stokesbury, James Boon, and William Cumberland Shea, the said Farrel Reddy, then and there in manner and form aforesaid, wilfully, traiterously, and of their malice prepensed did flee and murder, against the peace of our said Lord the King his crown and dignity, and against the form of the statute in that case made and provided.

M O N D A Y the 22d.

The grand jury having returned this bill of indictment " a true bill against James Vance, and ignored it as to all " the other persons named therein;" James Vance was accordingly set to the bar (he having been previously divested of his sheriffs' chain and his sword) and arraigned thereon, as likewise on seven other bills of indictment, found against him, and ignored as to the other persons named therein. To which several bills of indictment he pleaded NOT GUILTY.

Arthur Browne, Esq; then moved the court, that a day be appointed for the trial of James Vance, when the court was pleased to appoint Thursday the 25th.

THURSDAY

THURSDAY the 25th.

The court having opened at half after ten o'clock in the morning, James Vance was set to the bar.

Clerk of the Crown.—James Vance hold up your right hand to the bar.—In number 32 you stand here indicted for that you not having the fear of God before your eyes, but being moved and seduced by the instigation of the devil, &c. &c. how say you James Vance, are you guilty of the treason and murder laid to your charge or not?

Vance. Not guilty.

C. C. Culpit, how will you be tried?

V. By God and my country.

C. C. God send you a good deliverance. Are you ready for your trial?

V. I am.

The following persons were then sworn a Petit Jury,

Robert Shaw,
Robert Ogilby,
John Lindsay,
Andrew Callage,
Nathaniel Hone, jun.
Phillip Abbot,

George Adamson,
Hans Blackwood,
John Hamilton,
William Wallis,
Christopher Ormsby,
Charles Strong.

Twenty-seven were challenged by the Crown and ordered to stand by; and nine were peremptorily challenged by the prisoner.

Mr.

MR. SOLICITOR GENERAL.

MAY it please your lordship, and you, gentlemen of the jury, the painful task having devolved on me, of stating to you the melancholy transaction which has given rise to the present prosecution, I will do it with all the moderation which the case will admit of; I will state the facts as connected with the evidence, and then leave it for the court to determine on the point of law, in case any difficulty should arise; I shall leave it to the court to investigate the matter, and will state the transaction simply, and with candour: I will not speak to your passions, gentlemen, or endeavour to prejudice your minds against the unhappy gentleman at the bar, God forbid I should.—My lord and gentlemen of the jury, it appears that on the 26th of last December, being St. Steven's day, a day which the lower order of people give up to relaxation from labour, and assemble for amusement and diversion; on that day, gentlemen, a number of tradespeople had purchased a bull, and brought him to a field in the vicinity of this city, which was enclosed with a very high stone wall, and a gate which was kept shut: gentlemen, although bull-baiting has been always deemed an innocent and manly amusement for the lower ranks of people, yet at the instance of some person, whose refined manners could not allow him to connect bull-baiting with those polite amusements he had been accustomed to, repaired to the prisoner at the bar, who was a sheriff of the city of Dublin, and required him to call out a military guard, either to make prisoners, or to destroy the people;—gentlemen, as I am instructed, the prisoner immediately complied with this requisition, and when he with his assistance and the soldiers under his command had arrived at the field, they found the persons, who were at their sports, had the gates shut and no appearance of riot or disturbance; it became therefore necessary for the sheriff and the soldiers to scale the walls, in order

order to get into the field : when they had done so, they found the persons peaceable and quiet, the bull standing in a pool of water drinking, and no appearance whatsoever of disorder or riot : upon the approach of the sheriff, the people, conscious of the respect due to the magistrates, pulled off their hats and shewed every disposition of being amenable to his order ; however, gentlemen, the sheriff inflamed by a preconceived exploit which was to be performed, ordered the guards to prime and load with ball ; I shall make prisoners, said he, and carry them to goal. He kept his word, he took them into custody, they made no resistance, they surrendered themselves quietly, he was the magistrate, he must be obeyed, he was supported with a military force, and take them into custody he was determined. The wretched young people on seeing their friends and acquaintance, who had been guilty of no crime against the law, carried away to prison in an ignominious manner, they set up a shout of disapprobation. This contempt of the sheriff's power irritated his passions, and some oyster shells and a few pebbles having been thrown at a considerable distance towards the party, the sheriff ordered the military to fire : however, gentlemen, it does not appear that any person was hurt by this fire. When the sheriff and his party had arrived opposite the New Custom-House, apprehending an intrusion on his authority, he became more irritated and inflamed ; he gave orders to the soldiers to fire low ; the melancholy event which immediately took place shewed that they too implicitly obeyed his orders. He proceeded with his guard through Abbey-street ; in his progress he became more inflamed ; and having once dipped his hands in blood, he could not be restrained ; he gave the soldiers directions to keep up a constant platoon fire ; they obeyed, and several fell victims to his rage ; among the rest was Ferrall Reddy, with whose murder the prisoner stands charged. I am instructed, gentlemen, that the unfortunate deceased was standing in the street, looking at the sheriff and his soldiers with

curiosity

curiosity and astonishment : however, on seeing the frequent fire given by the soldiers, and terrified by the dangers which surrounded him, he endeavoured to escape to a place of security ; the prisoner at the bar observing this, and burning with unprovoked rage and passion, cried out to a soldier who stood near him, " aim at that fellow." The soldier, who is the instrument in the hands of the man who commands him, obeyed the orders literally ; he fired, and shot the miserable inoffensive wretch through the body, of which wound he died soon after. Gentlemen, on this dreadful occasion, many were wounded, several had their limbs shattered, and four inoffensive men were killed. The circumstances of this melancholy affair have made a deep impression on the public mind, and the general voice of the people cry aloud, that such mischief may be kept within proper bounds. And, gentlemen, you will observe, that this unhappy business originated from a miserable set of people assembled at a bull-bait, an amusement recognized by law, of which I can quote the highest and best authority. The law, gentlemen, has classed bull-baiting among innocent and manly exercises and amusements, in *first Hawkins's Pleas of the Crown*, 295, the learned writer who has connected the best authorities in the crown law, says, " That in every
 " riot there must be some circumstances either of actual
 " force or violence, or at least of an apparent tendency
 " thereto, as are naturally apt to strike a terror into the
 " people ; and from hence it clearly follows, that assemblies at wakes, or other festival times, or meetings for
 " exercise of common sports or diversions, as bull-baiting, wrestling and such like, are not riotous." It would ill become me, to let any thing fall from me this day, which could be construed as an argument to encourage the lower class of people to oppose the authority of the magistrates, far be it from me ; but, gentlemen, I am instructed to say, that the prisoner at the bar was not opposed, nor his authority insulted. It is my duty to illustrate the circumstances ; but I will do no more than
 what

what is absolutely necessary. Gentlemen, the prisoner at the bar stands charged with murder, one of the most dreadful crimes in the catalogue of human offences ; I shall not go more into the matter of law ; I have made those observations under the controul of the court, and feel myself under infinite obligations for the indulgence. I have quoted the highest authority, and shall leave it for the consideration of the court. The matter to be considered now is, whether the man was killed ? that being established, it rests upon the prisoner at the bar, to shew a justification to the court and the jury for the act. If I am instructed right, gentlemen, this was a most cruel, wanton, and alarming murder. It is necessary that the lower order of people should know, that if magistrates are guilty of unwarrantable acts in the exercise of their office, they will be amerced ; and that the laws are open equally to the peasant and the prince. Every person in this great city is materially interested in the result of this trial ; they have made their appeal to the laws of their country, those laws, which will not admit the magistrate to act contrary to the law. The people are anxious to know what will be done in this business. We well know, that although a subject has been killed, there may have been a sufficient cause of necessity of self-defence, or under such circumstances as may be considered manslaughter ; but if I am instructed right, the orders in the present case were unnecessary, wanton and unprovoked. It appears that a malignant spirit, which implies malice, actuated the prisoner at the bar to give the orders ; it must be a case of necessary self-defence that will justify the taking away the life of another ; but if any difficulty should arise, as this is a question of great importance, I, having great and able assistance, shall not take up any more of the time of the court ; I have therefore nothing more to do, but leave the evidence before the court and the jury, fully convinced, that a verdict, satisfactory to the public and the parties interested, will be given.

B E R-

BERRESFORD BURSTON, Esq.

M Y lord and gentlemen of the jury, we will first produce Mr. Ford, the surgeon, to prove the death of Farrel Reddy.

JOHN FORD, Surgeon.

B. Did you know Farrel Reddy ?

F. I have seen him.

B. What are you ?

F. A Surgeon.

B. Were you called on to see him ?

F. I was, on the 26th of December last.

B. Is Farrel Reddy living, or dead ?

F. Dead ;—his death was occasioned by a gun shot wound.

B. When did he die ?

F. On the night of the day, or the next morning on which he had received the wound.

Cross-examined by WILLIAM CALBECK, Esq.

C. Pray, Mr Ford, was the wound in his belly ?

F. It was ; the ball went through.

C. Were you in the neighbourhood of Abbey-street, on the 26th of December ?

F. I was in Capel-street.

C. Did you not hear, and don't you believe, that stones were thrown by the mob, at the slieriff and his party on that day ?

F. I did hear and do believe, that stones were thrown at the slieriff and his party, by the people in the street.

C. Did you not hear, and don't you believe, that Farrel Reddy had a stone in his hand at the time he had received the wound ?

F. I heard a man had a stone in his hand, but don't know whether it was Farrel Reddy or not ; but to the best

best of my recollection, I was informed he had, by a woman in the hospital.

C. Do you know who the woman was, that informed you?

F. Her husband was a patient in the hospital.

GARRET ARCHBOLD, examined by
MICHAEL SMITH, Esq.

A. I was coming down Abbey-street on the 26th of December last, I saw sheriff Vance in the street; there were three soldiers with him; I saw some persons in the street; I saw one man run, and heard sheriff Vance say to the soldiers, "aim at that fellow;" I then saw the soldiers level at the deceased Farrel Reddy, they presented their pieces for some yards, and one of them then fired.

S. Are you sure you heard sheriff Vance give orders "to aim at that fellow?"

A. I am positive I did, and one soldier fired immediately after.

S. Could you, from where you stood, see the man at whom the soldier took aim?

A. Yes, I saw him clearly, I had him full in my view; I ran up to him, and saw him unbutton his waistcoat and small-cloaths, he was very bloody, he was bleeding out of the wound he had received in his belly, and his hand was bloody.

S. Pray now, how near were you to sheriff Vance, when you heard him give those orders you mention?

A. Within seven or eight yards, he was at one side of the street and I at the other, it is the narrowest part of Abbey-street; I looked up and down the street, I saw a number of persons scattered, but they were not collected in any crowd.

S. Did you see any other soldiers in the street, except the three who were with the sheriff?

A. I saw alderman Carleton, with other soldiers.

Cross

Cross-examined by SERJEANT DUQUERY.

D. Did you not see a great mob in Abbey-street, the 26th of December?

A. I did see a mob, but cannot tell the number.

D. Now, Archbold, by virtue of your oath, were there not two hundred persons assembled in the street on that day, when you saw sheriff Vance?

A. I cannot be particular as to the number, but I do not believe there were two hundred.

D. Did you not see a great number of stones thrown at the sheriff and his party by the mob?

A. I did see some stones thrown, but did not see the persons who threw them, they came from a considerable distance; I was coming from the Post-office, I came down Swift's-row, and when I came into Abbey-street, I then saw the sheriff and soldiers.

D. Were you at the coroner's inquest?

A. I was not.

D. When was it that you lodged your informations respecting this business?

A. In some time after, I cannot tell the day, I cannot tell particularly, I do not know but it might have been a month after.

D. Pray, Archibold, did you give evidence before the coroner at the inquest?

A. I did not: I knew nothing of the inquest till it was near over.

D. Were you not in the hospital when the inquest was sitting?

A. I do believe it was going on while I was there; it was near four o'clock, I was in the hall of the hospital, therefore cannot tell what they were doing.

D. What business do you follow?

A. I am a carver and gilder.

D. Pray Archibold what brought you to the hospital?

A. Why

A. Why fir, the next day was Sunday, I saw a great croud about the hospital door, I went into the hall and was informed the inquest was sitting.

D. Then if you knew the inquest was sitting, why did you not go in and give evidence?

A. I was told there were witnesses enough already, and that there was no occasion for me.

D. How came you to know that the inquest was sitting on the body of Farrel Reddy?

A. I saw his coffin in the hall and read his name on it; I did not know that it was Farrel Reddy till I saw his coffin.

D. Pray who was the person who informed you that there was not any occasion for your evidence?

A. A young man an acquaintance of mine.

D. What was his name?

A. I forget his name.

D. Was he not an acquaintance of yours?

A. He was a slight acquaintance.

D. How long have you known him?

A. About two years.

D. Did you ever do any work for him?

A. I did a little.

D. Where does he live?

A. On the Batchelor's-Walk.

D. Were you ever in his house?

A. I was once.

D. What business does he follow?

A. He is in the coal factor's business.

D. Then fir how comes it that this person, who has been an intimate acquaintance of yours for two years, in whose house you have been, and for whom you have worked, that you do not know his name?

A. I do not say he is an intimate acquaintance, I say I know him slightly, I could know his name in a few minutes; I know his christian name is Luke, but I really forget his other name.

D. Pray

D. Pray Archbold what was the reason you came to give evidence ?

A. I was called on by several persons to declare what I knew of the affair.

D. Who was it called on you for that purpose ?

A. Mr. Rowan, Mr. Ellis, and Mr. Booker.

D. How came those gentlemen to know that you knew any thing of the affair ?

A. I do not know how they came to know it ; I mentioned the affair in the hospital at the time of the inquest ; I told the young man in the hospital, that I heard Mr. Vance order the soldiers to fire, and that I saw the man shot.

D. Pray did you ever go to Mr. Ellis or Mr. Booker, to tell them what you declared here ?

A. No, never, they came to me, and asked me if I would declare the truth of what I knew.

D. Do you recollect who were next to Mr. Vance when you saw him in the street ?

A. The soldiers were next him.

D. Was not that part of the street where you saw the sheriff, crowded with mob ?

A. No, it was very thin of people.

D. What, did you not see the mob in a large body in the street ?

A. No, I did not, they were scattered.

D. Did you see any stones thrown ?

A. I saw two stones thrown ; I was looking at the soldiers ; the stones did not come to where the soldiers were ; the sheriff was close to the soldiers, the stones did not fall near him.

D. Were those stones very large ?

A. I did not observe the size of them.

D. Do you not believe they were meant to be thrown at the sheriff and his party ?

A. They seemed as if meant to be thrown at the party, but did not hit any of them. I was standing on
the

the steps of my door, the sheriff was at the other side of the street, it is the narrowest part of Abbey-street.

D. Was there any person between you and the sheriff at the time he passed?

A. No.

D. Will you take upon you to say that there was no noise in the street at that time, which might have prevented your hearing the orders which you say you heard the sheriff give?

A. I am positive there was not; I heard the words distinctly, they made such an impression on my mind that I shall never forget them.

D. Was there any other person near you at the time?

A. There was a woman standing at a cellar door, her name is Ledford; there were other persons looking out of the windows of the house where I stood, of the name of New.

D. Archbold, are you not a subscriber for carrying on this prosecution?

A. No sir, I am not; I never heard there was any subscription for that purpose.

D. Was there not a vestry called for that purpose?

A. I do not know; I have something more material to mind than making any enquiries about it; I have lost a great deal of my time already, attending this trial four days.

Question from one of the Jury.

I. Did you hear the words which were spoken by the sheriff distinctly?

A. I did, more so than I hear you now.

I. Did you not say you did business for the man you call Luke?

A. I did, it was very trifling, it was only a shilling matter.

Question

Question from the Court.

C. Pray witness, upon your oath, were the stones thrown, or the shots fired first?

A. My Lord, the stones were thrown before the shots were fired.

HENRY GONNE examined by ARTHUR BROWNE, Esq.

B. Pray Mr. Gonne where do you live?

G. At No. 26, Abbey-street.

B. Do you recollect the 26th of December last?

G. I do very well.

B. Do you recollect any thing particular that happened on that day?

G. I do sir. I was behind my counter paying some money, I heard a shot fired; upon which I went to the door; immediately on which a second shot was fired; I looked towards Capel-street, and saw a soldier present his gun at a man whose name I believe was Farrel Reddy. When the soldier fired, I went across the street; the man was wounded, he went under a gate way and opened his breeches, I saw him wounded, and bloody; he went afterwards to a surgeon. I did not see the sheriff at that time in the street, I saw him before going down the street.

B. How far were the soldiers from the man you saw shot?

G. Not very far.

B. Were there many persons at that time in the street?

G. There was not, nor was there any necessity for the soldiers firing.

B. Was there a mob in the street at the time you saw the soldiers fire?

G. There was not. I was standing at my door, there was no mob at that time, if there was a mob in the street

street, they had scattered before I came to the door. If there had been a mob in the street at that time, I must have seen them. I saw the soldier present his piece at the man, and saw him shot.

B. Did he appear to you to have been in a mob, or that he had been throwing stones?

G. He did not appear to have been among any mob, he had no stone in his hand; he had not the appearance of a rioter; his hands were clean; I did not see him till after he was shot, but he had no appearance of a person who had been throwing stones.

Cross-examined by J. P. CURRAN, Esq.

C. Pray what brought you to your door at the time the sheriff passed?

G. When I heard the shot in the street I went.

C. What distance were you from the soldiers when they fired?

G. I cant tell exactly, I did not measure it, they were about at number 20, and I live at number 26.

C. Cou'd you not hear at that distance any order which might have been given by the sheriff to the soldiers?

G. I cou'd not at that distance hear the commands, unless the sheriff spoke very loud.

C. Well, Mr. Gonne, was there not a mob in the street when you saw the soldiers fire?

G. I did not see any mob, there might have been a mob, but I did not see them.

C. Did not you hear that a great number of stones were thrown at the sheriff and his party?

G. I did hear that stones were thrown.

C. Do you then suppose that those stones got up of themselves and came rolling along towards the sheriff?

G. Up of themselves—why should I suppose that—I do not believe any such thing.

C. Pray Sir, were you at the coronor's inquest?

G. I was.

C

C. Had

C. Had you any conversation with sheriff Vance at the inquest?

G. I told him he had acted very improperly.

C. And pray were you not turned out of the room where the inquest was held?

G. Upon my honour I was not.

C. Did you see sheriff Tharp in the street?

G. I did, he came from Liffey-street; I told him the affair; sheriff Vance had gone towards Capel-street; I saw sheriff Tharp in a minute or two after the man was shot coming up Abbey-street; I told him that sheriff Vance had done a great deal of mischief.

C. Are you positive there was no mob in the street?

G. Upon my honour I am.

C. Why Sir I have a very high opinion of your word and honour, but I must remind you that you are now answering upon your oath.

G. Well Sir, whatever you please, with all my heart.

C. Well then, Sir, I ask you on your oath, was there any mob in Abbey-street that day?

G. Upon my honour there was not.

C O U R T.

Sir you are bound to declare the truth by a more solemn obligation, than either your word or your honour; I can attend to no answer from you that is not on your oath.

G. Well then, my lord, upon my oath there was neither tumult or disturbance in the street at the time.

C. Were you at the coroner's inquest?

G. I was.

C. Were you sworn at the inquest?

G. I was not.

C. Then what brought you there?

G. I was coming from church; I saw Mr. Ned Lee whom I knew, and went in.

C. Did

C. Did you not enter into conversation at the inquest with some person, in consequence of which you were turned out ?

G. I did not know the gentleman I was speaking to was on the inquest ; I was desired to withdraw.

C. O then, you were not turned out, but you were desired to withdraw.

G. Yes.

C. And did you withdraw ?

G. Yes.

C. Pray Sir, were there not two bailiffs came to your house with a warrant on that day ?

G. I know of no such thing, they had no business there.

C. Did you give any money to carry on this prosecution ?

G. Not a farthing.

C. Have you not heard that a subscription has been entered into for carrying it on ?

G. Never.

C. Pray now, Sir, was there not a printed bill left at your house, informing that subscriptions were entered into for the purpose of carrying on this prosecution ?

G. I never heard that there was any such thing left at my house, or at any other house.

ROBERT WELSH, Esq; examined by JAMES WHITESTONE, Esq.

I recollect the 26th of last December very well—I live at No. 29, Abbey-street; on that day I was sitting in the street parlour, when I heard two shots fired; I looked into the street, but did not go close to the window; I believe I stood about two yards from it; I did not see a greater number of persons in the street than ordinary.

Wb. Pray Sir, did those persons you saw in the street appear to be riotous ?

We. By no means; they seemed more curious than riotous.

Cross-examined by W. CALBECK, Esq.

C. Did you see sheriff Vance in the street when you looked out of the window ?

W. I did not.

C. Might there not have been a mob in the street without your seeing them ?

W. If there was a mob they must have dispersed very soon, as the number of persons whom I saw in the street were by no means extraordinary ; they had more the appearance of persons going on business, than a mob.

CHRISTOPHER LYNCH examined by JAMES HARVEY, Esq.

H. Did you see any soldiers fire in Abbey-street on the 26th of December last ?

L. I did see soldiers fire.

H. Did you hear any persons give them orders to fire ?

L. I did not.

H. Where were you at the time you saw the soldiers fire ?

L. I was returning from town ; I saw the soldiers going up the street with prisoners ; I thought they had been robbers that had been apprehended ; sheriff Vance was with them, and upon my oath I saw no provocation for their firing.

H. Did you see any stones thrown at the sheriff or the soldiers ?

L. I did not see any stones thrown.

H. Was the street very much crowded ?

L. No Sir, not more than usual.

Cross

Cross-examined by WILLIAM CALBECK, Esq.

L. I live in Abbey-street, at the corner of Liffey-street ; I was in the street when I saw the sheriff and soldiers ; when I saw the soldiers fire I went back into a shop ; there was not a great crowd of people in the street.

C. Did you not hear, and do not you believe, that the sheriff was bringing his prisoners to jail ?

L. I did hear it, and do believe it.

C. Now then will you inform the court and jury what number of persons you saw in the street at that time ?

L. I cannot tell the number I saw.

C. Did you not hear, and do not you believe, that there was an attempt made to rescue the prisoners from the sheriff ?

L. I heard there was an attempt made to rescue them.

C. Well then, do not you believe it ?

L. I do.

C. Did you not hear that there were stones thrown at the sheriff and soldiers ?

L. I did ; but there were not any stones thrown when I was present.

C. Don't you believe the shots were fired in consequence of the stones having been thrown ?

L. Not the shots that I saw fired.

C. Might there not have been stones thrown without your observing them ?

L. There might, but I believe no stones were thrown at the time I saw the soldiers fire.

C. Don't you believe that there were stones thrown before you came there ?

L. I do.

C. Then don't you believe the soldiers fired in consequence of those stones having been thrown ?

L. I do not believe that the shots I saw fired were in consequence of the stones being thrown, as I saw no stones thrown.

C. Now

C. Now Sir, let me ask you, do you suppose that Sheriff Vance would give orders to the soldiers to fire, merely for the purpose of killing the people in the street.

L. Indeed I do not suppose he would.

C. Do you believe the sheriff had any malice to Farrel Reddy?

L. I do not know whether or not.

C. Was there a vestry held for raising subscriptions to carry on this prosecution?

L. I do believe a vestry was held for that purpose.

C. Have you subscribed?

L. I have not.

MICHAEL SMITH, Esq.

My Lord, we shall here rest the case for the murder of Farrel Reddy.

Mr. CALBECK.

My Lord, before we go into evidence on the part of the prisoner at the bar, if any doubt should arise as to the point of law, I hope your Lordship will hear us.

C O U R T.

Certainly, but at present I confess I can see no such thing; the law is very well settled on this point.

DIANA M'DONNELL,
Examined by Mr. RECORDER.

M'D. I live in a cabin in a field on the North Strand.

R. Do you remember the 26th of December last?

M'D. I do; I was in the cabin in the field. There came a great crowd and a bull to the field; they came over the wall and burst open the gate, and broke the door

door and the stable door, and brought in the bull forcibly.

R. Were you alarmed at the crowd of people that came to your cabin?

M^cD. I was very much frightened; I made my escape out of the cabin and made off with my life, and I left the house to Peter Duff.

R. Was he alarmed, or afraid of any injury happening to him from the mob?

M^cD. He was; he was forced to hide in the stable to secure his own life.

R. Was you in the field soon after the mob quit it?

M^cD. I was.

R. Did you see any sticks lying in the field?

M^cD. I did, a great many.

R. Were those sticks in the field before the mob brought the bull there?

M^cD. No, they were not.

R. What time of the day did the mob come to the field?

M^cD. It was in the forenoon, about twelve o'clock.

R. Where did you go, after you left your house?

M^cD. I went to Mt. Gomery-street.

R. Whose duty was it to take care of the field?

M^cD. It was my husband's duty.

R. Was your husband at home at that time?

M^cD. He was not.

R. For what reason did you desire Peter Duff to take care of your house?

M^cD. Why Sir, as I was alone by myself, I made off with myself, and begged of the young man to take care of it till I came back.

R. How long did you stay away?

M^cD. About an hour and a half; I did not come back till they were all gone away.

R. In what condition did you find the walls that surrounded the field on your return?

M^cD. The walls were broke down.

R. Were

R. Were there any stones lying loose in the field?

M^d. There were plenty.

R. Were those loose stones in the field before the mob came there?

M^d. They were not.

Cross-examined by Mr. S M I T H.

S. Pray, my good woman, did you ever see a bull-bait in that field?

M^d. I did, please your honour.

S. Did not a great mob come over the walls in the same way then, that you describe now?

M^d. No, they did not.

S. Were there any persons killed by soldiers at the bull baits you have seen there before?

M^d. No indeed, there never was.

S. Now, pray did not those stones which you saw lying loose in the field, fall off the walls, in consequence of persons climbing up to see the bull-beat?

M^d. I believe they did.

S. Do you not think the tradesmen and poor people who came there that day, came merely to bait their bull, and not to do you any injury?

M^d. Indeed, I cannot think they came to do me any harm at all.

Mr. J O H N P A T R I C K examined by Mr. C A L B E C K.

C. Do you remember Saint Stephen's day last?

P. I do.

C. Where were you on that day?

P. I had been out of town; on my return, when I came into Abbey-street, I perceived a multitude of people with a bull, the bull was loose, there was no rope round his neck; I found a difficulty in passing; and perceiving

ceiving a number of persons of every age and sex walking in the street, when I came to the Coffee-house, I thought it a duty which I owed the public to inform Mr. Sheriff Vance, whom I met there, of what I had seen.

C. Mr. Patrick, had those persons any weapons with them?

P. Not that I perceived; they were going quietly.

C. Did you think yourself in any danger?

P. I certainly did.

C. Were there not a very large crowd of people with the bull when you met them?

P. Why, I cannot say that there was a very great crowd, but such a number as made me very anxious to get rid of them.

C. What conversation had you with the sheriff in the Coffee-house?

P. I told the sheriff that I thought it his duty to prevent such acts of inhumanity: Mr. Vance told me he had got a severe cold, and begged I would apply to alderman Carleton, who was then in the Coffee-room, and that he would go.

C. Did Mr. Sheriff Vance seem to wish to avoid going?

P. He did; alderman Carleton came up, and said, Mr. Sheriff Vance, if you will go, I will go with you; they both then consented to go; and I remained in the Coffee-house: in sometime after, I went home, and went into my counting-house to write my letters; and in sometime after that, I heard a noise in the street, I looked out of the window, and saw two or three soldiers who had prisoners in their custody, and sheriff Vance with another; I heard two shots fired; and heard a cry of "run, run."

C. Were the shots fired before you heard the cry of "run, run?"

P. I cannot tell.

Cross-examined by Mr. SOLICITOR GENERAL.

Heard that there were three persons killed; one was brought to the church, and two to the hospital. Heard that a fourth was killed, and some persons wounded. Heard that the persons who had the bull, brought him to an enclosed field, and that they had him within the enclosure.

Sol. Did you not hear, Sir, and do you not believe, that no tumult existed in the field before the sheriff's arrival?

P. I heard that the wall which inclosed the field had been thrown down, and that several persons were hurt at the bull-bait. I saw the bull near the New Custom-house, several persons had him by the tail, and were twisting it and goading him on: I felt an impulse of humanity, and wished to get away.

Sol. I suppose, Sir, it is not the first time you have seen a bull-bait?

P. Upon my word I do not know that ever I saw the like before.

Sol. Pray, Sir, have you ever seen oxen drove furiously through the streets?

P. I have.

Sol. It is not customary for the drivers to take oxen by the tail, and yet this bull was so remarkably quiet, that the persons you saw had hold of his?

P. It was not merely holding his tail, they were twisting it in order to put him to torture.

Sol. Have you heard that those persons were guilty of any offence on that day?

P. I heard of none other than that of beating the bull, except from Alderman Carleton, who informed me some person cried "take up a stone."

Sol. Where did you hear the first man was shot?

P. At the Custom-house: but I did not hear where the other persons were shot.

Sol.

Sol. Did you desire the magistrates to call out the military?

P. I did not.

Sol. Did you not consider the police the fittest persons to be called out on that occasion?

P. I did consider a force necessary: but, Sir, as that is merely matter of opinion, I beg to apply to the court, to know whether I am to give it or not?

C O U R T.

Sir, the counsel for the crown have a right to ask your opinion.

P. Then, Sir, I did think the police would have been the fittest for the occasion; but I left that matter intirely to the discretion of the magistrates.

Sol. Do you know the number of shots that were fired by the military that day in Abbey-street?

P. I do not: I know of only three, which were fired near my own door.

Sol. What part of Abbey-street do you live in?

P. I live at No. 17, near Jarvis-street.

Sol. You say you heard the words run, run, made use of; pray now who do you imagine made use of those words?

P. I do suppose Mr. Sheriff Vance.

ALDERMAN CARLETON examined by
Mr. CURRAN.

I remember the 26th of last December: I saw Mr. Patrick and Sheriff Vance in the Exchange Coffee-house; Mr. Patrick wanted the sheriff to go and disperse some bull-baiters, I said I would accompany him, and we agreed to go: I advised to send to the divisional magistrate, Alderman Moncrieffe, for a party of his best men to assist us; we got one constable only; we could
get

Sol.

get no others of the police; we then applied to the Castle-guard, and got a party of the military: it is not an easy matter to collect the police in the day-time. We then went down Abbey-street, and when we came to the New Custom-House, we heard a great noise towards the Strand; we therefore divided the party, and went different ways.

Cur. Did you and your party go through the gate of the field where the mob assembled?

Car. No; for not knowing the situation of the place I went to the wrong side; I found a ladder raised against the wall, I therefore went up, and saw sheriff Vance in the field, with his party, and a great number of persons: the bull was at large, and a number of dogs in the field; the sheriff had one man prisoner; upon which I got down the wall into the field, to give him assistance; I saw one man, who was drunk, of the name of Sullivan, he had a dog; this man was taken by the inspector of police. There were six taken and committed to the care of the guard.

Cur. Were the persons in the field very quiet all this time?

Car. They were not; they were very turbulent. I was obliged to give four of my men to the sheriff.

Cur. Did you hear any particular expressions made use of by any of the persons in the field?

Car. Yes; there was a cry of "shut the gate."

Cur. Did you observe any person make use of those words?

Car. I did; I caught one man in the very act; the gate was closed; I entreated them to let it be opened, which they would not do; a stone was then thrown, which hit one of themselves, and I then gave orders to prime and load, upon which they opened the gate, and I marched the men out of the field. After we got out of the field a great number of stones were thrown; I cannot tell, however, whether any person was hurt, as I

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was obliged to take shelter under the wall. I was in the front, and did not consult with the sheriff.

Cross-examined by Mr. BROWNE.

B. Did you know any thing of the persons having been killed in Abbey-street ?

C. I did not know what happened in Abbey-street ; I was in the front.

B. Was there not a high wall round the field where the persons had assembled ?

C. There was a pretty high wall, about ten or twelve feet high.

B. Could the bull get over it ?

C. Oh no.

B. Have you seen many bull-baits ?

C. Upon my word, as long as I have been in Dublin, I never saw one before. When I came into the field I seized one person ; we proceeded to seize others ; the fellows drove the bull towards us, in order to annoy us ; but I do not know of my own knowledge whether they committed any violence ; I heard they did.

B. How soon after you came to the field, did you order the guard to prime and load ?

C. In about five minutes. I ordered them to prime and load, in the usual manner, and suppose they loaded with ball. I heard the mob cry out shut the gate ; I seized one man in the act ; there was a stone thrown then, which hit one of themselves.

B. Were the prisoners taken before the stone was thrown ?

C. They were.

B. Then, Sir, your evidence is this : You ordered the guard to prime and load with ball in five minutes after you came to the field ; that no stone had been thrown at that time, and that one stone only was thrown after, which

which did no other injury, than hitting one of themselves; and that no stone was thrown until after you had taken the prisoners into custody?

C. It is: but they did not open the gate until after I had ordered the guard to prime and load; and when we got out of the gate several stones were thrown.

B. Did any of those stones hit you or your party?

C. I believe not; I escaped the blow of one stone, which was a very dangerous one; but I was not hurt with any. I was about twenty yards advanced, when the orders to fire were given.

B. I ask you, Sir, upon your oath, was it then necessary to give those orders?

C. It was necessary.

B. And yet, Sir, you say, no person of your party had received the smallest injury by the throwing of those stones?

C. They did not. The fire continued to near Stafford-street, and the mob continued to throw stones all the way; I did not hear that any person was hurt by those stones, nor indeed any thing particular, until I came to my own house. I do not know where Sheriff Vance was; I never turned about; I believe I might be twenty yards before him; I had the charge of the prisoners, therefore cannot tell what happened.

B. Did you apprehend yourself in any danger from the mob?

C. Certainly, if it had not been for the fire.

C O U R T.

Was there any attempt made to rescue your prisoners?

C. No, my Lord, except the throwing stones.

B. Had you any soldiers under your command?

C. I had; but I did not give them any orders to fire. There were but two stones thrown that came near me; the

the last was near Stafford-street ; I can't tell where the last shots were fired ; but I believe they were fired near Liffey-street ; I believe I was not in Capel-street when the last shots were fired ; I believe I was near Mr. Stewart's, the other side Mr. Patrick's.

QUESTION by one of the JURY.

J. Do you not believe, alderman Carleton, that the persons who followed you, intended to rescue your prisoners ?

C. I do believe they did.

J. Had you any communication with Mr. sheriff Vance ?

C. I had not.

J. Do you not believe, and are you not satisfied, that if Mr. sheriff Vance had not used the means he did to keep off the mob, they would have rescued the prisoners ?

C. I am perfectly satisfied they would.

JOHN ROBINSON examined by Mr. RECORDER

I was walking on the strand on the 26th of December last ; I saw a great mob ; they had a bull in the field ; I went in, and they were baiting it ; alderman Carleton and sheriff Vance came there with the guards ; and on their coming into the field, they took five or six persons prisoners, who appeared to be most active at the bull-bait ; I heard the mob cry out, " Shut the gate, and every man a stone." They shut the gate, but did not throw any stones then ; several of the mob took possession of the gate, to keep it shut : alderman Carleton then ordered the guards to prime and load ; and on that a great number of stones or clods were thrown ; and on their going out of the gate, a very great number of stones

stones were thrown ; Mr. sheriff Vance then ordered the guard to fire over the heads of the people, which they obeyed ; I particularly observed the soldiers level high in the air.

Rec. Did this intimidate the mob ?

Rob. By no means, it had quite the contrary effect ; it rather irritated them than any thing else ; the sheriff was obliged to take shelter in a breach in the wall ; and I heard him repeatedly order the guards to present, but not to fire.

Rec. Had this the desired effect ?

Rob. It had not. The sheriff then proceeded along Abbey-street ; and I should imagine the orders given, by the sheriff for the soldiers to fire, was for self-preservation. I saw the sheriff and soldiers march as far as Stafford-street, and the mob continued to throw stones all the way through Abbey-street ; the mob pursued them all that way ; I heard several shots fired ; I saw two soldiers run out of their ranks, and I heard the sheriff desire them not to fire, lest the innocent should suffer. One of the soldiers returned, but the other fired.

Rec. Was that near the place where Farrel Reddy was killed ?

Rob. It was.

Cross-examined by Mr. WHITESTONE.

W. How long was you in the field before the sheriff came there ?

R. Better than half an hour.

W. Did you see any tumult amongst the people ?

R. No ; nothing but the bull-bait.

W. Did you hear of the sheriff's coming ?

R. I heard nothing of him till he came. I know Shea, the police constable, he was with the magistrates ; but I did not see him knock down any person in the field. I stood with the sheriff ; I was not hit by any of the stones,

stones, but I was very near it : one stone fell between the sheriff and me ; I was close to the sheriff the whole way, and did not hear him give any orders to the guard to fire, except the first time, which was over their heads. I went to the coroner's inquest by accident ; I heard sheriff Vanee sent for me ; but I knew nothing of it till I went : there were not so many of the mob at Liffey-street as at the New Custom-House.

W. How many were in the mob at Liffey-street ?

R. I cannot tell.

W. Were there fifty ?

R. I cannot form an opinion.

W. Were there ten ?

R. I believe there might be ten, men and boys altogether.

W. Pray now, don't you think the firing at Liffey-street might have been avoided ?

R. I cannot tell how it could.

W. Was the throwing of the stones as great at Liffey-street as at the Custom-House ?

R. Oh no !

W. Were there any of the soldiers wounded ?

R. There were not any ; one was struck on the hand ; if they had been hurt, I would have known it.

Serjeant JAMES JONES examined by Mr.
RECORDER.

I was on the Castle-guard on the 26th December last, I was ordered to attend the magistrates on that day ; we went to the Lots, where we saw people beating a bull ; we went into the field, the people were quiet, and the sheriff desired them to disperse, which they did not do ; they let loose their dogs, and the alderman and sheriff took some of them prisoners, and some one cried out, every man a stone. Alderman Carleton then went to pass the gate, and the mob resisted, and kept the gate

D

shut.

shut. The alderman then gave orders to prime and load, and then there were stones thrown over the wall of another field; but I cannot say the persons in the field where we were threw any. The party then advanced to the gate, which was then opened; the alderman marched in the rere for some time, and then took the front, the sheriff was in the rere: I heard the sheriff order the guards to fire high, and not hurt the people; but this had not any effect, the stones were thrown more numerous than before. Alderman Carleton was at this time in the front with the guard; I had twelve men and a corporal out. The sheriff was close in the rere, and the people followed with throwing stones; they continued to throw, till they came within about two hundred yards of the end of the street; I don't know the names of the streets; there were a good many stones thrown; I can't tell where the last man was shot; the stones fell amongst the guards, and were the biggest they could get; they would have done injury to any person they might hit: the corporal received one in the back, and another in the hand. I believe the intention of the mob was to rescue the prisoners, and if the magistrates had not acted as they did, they and the guard would have been very much abused, and the prisoners rescued.

R. Did the guard fire without orders?

J. They did not, Sir.

R. From the great quantity of stones you saw thrown, and from the great number of persons that attacked the magistrates, do you think it was necessary for the sheriff to give those orders?

J. Positive it was, Sir.

Cross examined by the SOLICITOR GENERAL.

Sol. The people were quiet, when you arrived at the field?

J. They were, Sir.

Sol. Would

Sol. Would any mischief have happened if the sheriff had not gone there ?

J. Can't tell, Sir,

Sol. Was it by directions of the sheriff the soldiers fired ?

J. It was, Sir.

Sol. Several stones were thrown, you say ?

J. Yes ; several fell amongst the guard.

Sol. Did the throwing of the stones continue any time ?

J. Yes ; from the New Custom-House, till we came to near the bottom of Abbey-street.

Sol. Were the mob near the sheriff and soldiers ?

J. Sometimes nearer than at other times.

Sol. You heard the sheriff give orders to the soldiers to fire ?

J. I heard him give orders to present, but not to fire.

Sol. When they did fire, was it not by the orders of the sheriff ?

J. It was, Sir.

Sol. There were several persons killed ?

J. I can't tell, Sir.

Sol. Where were you ?

J. With the guard.

Sol. And don't you know that a man was killed ?

J. I do not, Sir ; I heard a man was wounded.

Sol. What, Sir, did you not hear four men were shot ?

J. Did not, Sir.

Sol. I ask you again, Sir, did you not hear that some persons had been shot by the soldiers that day ?

J. I heard one man was shot, Sir.

Sol. Then I suppose you never gave yourself any trouble, or made any enquiry about the matter ?

J. I did not, Sir.

Sol. When were you applied to, to give evidence ?

J. About a month after.

Sol. Who was present when you were applied to ?

J. Sheriff Vance and another gentleman.

Sol. Who was the other person ?

J. I cannot tell, Sir.

Sol. Did you not hear that men had been killed that day, and that you were to be called on as a witness?

J. I did, Sir.

Sol. Then you did hear that there had been persons killed?

J. I heard one man was killed.

Sol. Do you know Jarvis-street?

J. I do not, Sir.

Sol. Do you know Liffey-street?

J. I do not, Sir.

Sol. Do you know where the last man was killed?

J. I do not, Sir.

Sol. What distance was the sheriff from the soldiers?

J. About four yards, Sir.

Sol. But you say it was by the directions of the sheriff that the soldiers fired?

J. It was, Sir.

Sol. Did not the soldiers keep up a regular fire all the way through Abbey-street?

J. They did not, Sir, quite to the reverse.

Sol. What do you call a regular fire?

J. I call a regular fire, Sir, When the men fire as fast as they can.

Sol. What distance of time, then Sir, was there between their firing?

J. I can't tell, perhaps a minute or two, I had no watch, I can't be particular.

Sol. Pray, Sir, were there not several persons who were shot at, standing at their own doors?

J. I cannot tell, Sir.

Sol. I Suppose the affair gave you no concern at all?

J. It did not, Sir.

Sol. Do you know, Sir, whether the persons against whom the fire was directed, were the persons who threw stones at the sheriff or not?

J. I cannot tell, Sir.

Sol. You

Sol. You certainly take a business of this kind easier than any person I ever met with.—Go off the table, Sir.

JAMES PORTER examined by Mr. CURRAN.

I was standing in my parlour on the 26th of December last; there was a crowd in the street; I went to the door, and saw several stones thrown; I saw sheriff Vance hit in the back of the neck with a stone; the stones were thrown by a mob in the street; they were standing at the corner of Union-street; they were shouting and hallooing, and as soon as I saw the sheriff hit, I went in.

Cross-examined by Mr. HARVEY.

H. Pray, Sir, what number of persons did you see in the crowd at the corner of Union-street, that day?

P. I am sure there were five or six hundred people.

JOHN HUGHS examined by the RECORDER.

I live within three or four doors of Jervis-street, at No. 190, Abbey-street; I saw a riotous mob in the street on the 26th of December last; I saw sheriff Vance and the guard running past my door towards Capel-street, and I saw persons running after them; I came to the door, and I saw stones thrown, one fell very near Mr. Vance, and I saw a boy attempt to pick up a stone, but he could not get it up.

Cross-

Cross-examined by Mr. B R O W N E.

I did not hear any shots fired ; but I heard there had been a man killed, near to where I live ; I cannot tell whether he was killed before the stone was thrown or after ; but I suppose it was after.

MARGARET BRET examined by the RECORDER.

R. Were you in Abbey-street on the 26th of last December ?

B. I was ; not far from Liffey-street ; I saw the mob and the slieriff coming down near Liffey-street.

R. Did you remark any particular person in the street at that time ?

B. I saw Farrel Reddy coming up after the mob ; I can't tell, please your honour, whether he was one of them, but I know he had a stone in his hand, my lord.

R. Did you say any thing to him ?

B. I said, for God's sake don't go down among them, as you may be killed.

R. Did he go ?

B. He did indeed ; and in a short time after that he came down again, my lord, and he had his hand on his belly where he was shot.

Cross-examined by Mr. SOLICITOR GENERAL.

Sol. Where did you see Farrel Reddy ?

B. He was following the mob.

Sol. Were there not many persons before him ?

B. There were a good many.

Sol. What part of the street were you in ?

B. I was standing near Liffey-street.

Sol. Were

Sol. Were there many persons in the street ?

B. There was indeed.

Sol. Did you know Farrel Reddy very well before that day ?

B. No indeed ; I only knew him by eye sight.

Sol. Did you see any other persons with stones in their hands ?

B. In truth I did not see any man with stones but himself.

Sol. Did you see any other person in the street whom you knew ?

B. Not one but himself ; he was walking pretty smart, he was not far from the crowd ; but I did not see him where he was shot ; he went to the hospital after.

Sol. What business did Reddy follow ?

B. He was a car-maker.

Sol. Was he not employed in the neighbourhood of Liffey-street ?

B. I believe he was.

Sol. What did you say to Reddy when you saw him ?

B. Why when I saw him with the stone, I desired him not to go, as he had a drop of drink in his head.

Sol. Did you not see several other persons running into the same danger ?

B. Indeed I did, several.

Sol. Did you desire any of those other persons not to go into the danger ?

B. I did not, indeed.

Sol. I ask you by virtue of your oath, did you see any stones thrown ?

B. By the virtue of my oath, I did not.

Sol. Nor you saw no stone with any person but with Farrel Reddy ?

B. I did not, never a one ; the crowd went towards Capel-street, and I did not see any outrage committed by them, nor one stone thrown.

GEORGE

GEORGE WILLIAM VERNON, Esq.
examined by Mr. CALBECK.

I was in Dublin on the 26th of last December; I was in Abbey-street at my lodgings, between Liffey-street and Jarvis-street, on the left hand of the street; I was standing at the fire, and on hearing the explosion of fire-arms, I went to the window; I saw the army, they seemed in confusion; I saw no mob at first; the army turned about and discharged their muskets; I observed they elevated them very much; I heard the cry of powder; I then saw the street crowded; I saw one person with a stone in his hand; he threw it, but I don't know with what effect.

Cross-examined by Mr. BROWNE.

V. I live nearer Capel-street than number 26, Abbey-street; I saw one of the mob throw a stone; I heard, and believe, there were persons killed near the Custom-House; they must have been killed before I saw the soldiers; it is natural to conclude that the mob threw the stones, in consequence of the persons having been killed.

SOLICITOR GENERAL.

My lord, I can produce evidence of the highest respectability to falsify the evidence of Porter, and to shew that no riot existed at the corner of Union-street.

COURT.

C O U R T.

Whether this case will appear to have been justifiable homicide, or not, will entirely depend on the credibility of the evidence ; but as to the bull-bait being an amusement recognized by law, I am positive it is otherwise ; and as to the trespass, that appears evident on the examination of Dianna M'Donnell.

S O L I C I T O R.

Your lordship will allow me to produce evidence to falsify Porter's evidence.

C O U R T.

You have a right to do so.

JOHN BLAKE examined by Mr. BROWNE.

I live at the corner of Marlborough-street, in Abbey-street ; I called on Mr. Vance in about two hours after the affair had happened, to know whether he would pay me for my windows which were broken. I asked him if he had been hurt ; he said that neither he nor any of the party had received any injury ; and he expressed these words in presence of Mr. Tharp.

Cross-examined by Mr. CALBECK.

There were two panes of glass broke in my window ; I never had them mended since, nor won't ; I will keep them open, as a *memento mori*, or a *memento homo*.

S O L I C I T O R

SOLICITOR GENERAL.

I will now produce Marcus Berresford, Esq.

MARCUS BERRSFORD.

B. On the 26th of last December, I had been riding. When I came into Abbey-street, I observed four of the military had passed; I saw a person in the street whom I knew, I spoke to him, and he said it would be better not to ride up the street. I therefore turned up Batchelor's-lane; when I came to the end of the lane in Abbey-street, I stood up in my stirrups, and looked up and down the street to see if I could perceive any mob, which I could not. I then went on and saw ten or twelve soldiers with Sheriff Vance. I saw two boys, indeed rather children, throw a stone or two; on which two soldiers stepped out of their ranks and fired down the street. There were no mob in the street; the balls ranged along Mr. Darley's wall near Union-street, and I soon after heard two more shots fired, and shortly after saw some persons carrying a boy on a door, whose leg had been shattered by a shot.

C O U R T.

I must take this meeting either as it first appears, or I must not. It appears on the evidence of the woman M'Donnell, that the persons who brought the bull to the field, were guilty of a trespass.

SOLLI.

SOLICITOR GENERAL.

My Lord, it don't appear that any application or complaint was made to the sheriff of a trespass by the owner of the field; he had no legal authority to take persons into custody who had been guilty of a breach of the peace. The question, my Lord, is simply this; who were the aggressors; was it the sheriff, or the bull-baiters? "Whether was the sheriff justified in making the party captives, and dragging them through the streets of this city to prison; or they in making resistance?" As to bull-baiting, be it savage or be it not, or be it such as no man would encourage in these modern times of effeminacy; be it what it may, it has grown up with the common law of England, as an innocent amusement. There are many other amusements that might appear equally savage to the refined manners of modern times; there are many manly sports calculated to encourage British freedom, and exercises that promote bodily health and vigour; and I may say with truth, that there is no country in Europe, where the lower order of the people are allowed so little amusements as in this kingdom. As to the bull-baiting; independent of the trespass, I could produce several instances of corporations holding their charter by having public bull-baits: Chester does so, the Isle of Wight, and Naas holds its charter by it. However the question comes, simply to this; was there any trespass complained of? There was not. The parties were considered as committing an illegal act, merely because they were baiting a bull, which was no offence at all; it was an act which is both lawful and innocent, and of this I have not the least doubt upon my mind. If a suitable number of persons assemble for the purpose of committing an unlawful act, they no doubt are riotors; the
magi-

magistrates have a right not only to desire them to disperse, but call out the posse to assist in apprehending them. I am ready to give that law its full latitude. But the question is this. "Whether, if a number of persons go into the close of a man who has not complained of the trespass, be such an act as would warrant the magistrates under the riot act, to disperse them, to destroy them, or to treat them as felons; to drag them in an ignominious manner through the streets, and plunge them into the loathsome dungeon of a prison?" If it does not, then the criminality must rest upon this one point, taking it upon the facts that occurred. The magistrates repaired to the field to disperse them, and many persons have been killed. The justification of the sheriff is, that they were doing an illegal act, and that he was doing his duty; and the question therefore is; "was the sheriff warranted to take those men prisoners, and drag them through the streets to gaol or not."

COURT.

C O U R T.

Gentlemen of the jury, James Vance, the prisoner at the bar, one of the high sheriffs of this city, stands indicted for the murder of Farrel Reddy; the indictment charges, that Joseph Stewart was the person who killed the deceased, and that the prisoner at the bar was aiding and assisting him to commit the murder; and I must here observe to you, Gentlemen, that the person indicted for aiding and assisting to commit a murder, is as guilty in the eye of the law, as he who actually gave the stroke. I will not, gentlemen, give a dry repetition of the evidence for the crown; it comes better from the mouths of the witnesses. I shall state the law as it is, and I shall then state the fact, which is for your consideration; whether the prisoner at the bar be guilty of the murder or not? I shall first premise to you, that in every charge of murder, the fact of killing, when once fully and clearly proved, justification must appear from the prisoner at the bar. The law in all cases of murder, implies malice, unless the contrary appears, unless the excuse appears to be fully sufficient, it falls upon the prisoner to shew sufficient excuse or cause. It appears most clearly from the evidence of Alderman Carleton, that information was given of what the persons considered an outrage. It appears that Vance endeavoured to excuse himself from going. It appears now most clearly, that a number of people, were assembled for the purpose of bull-baiting;

baiting ; but as to the question, whether bull-baiting be a legal amusement or not, I will not give an opinion, until the question comes properly before me. The question, whether that was a legal meeting or not, under the circumstances that have appeared in evidence, I shall give my opinion on, and I shall leave the facts to your consideration. It must be confessed, that there are manly exercises calculated for the lower order of people, and there is no man will pronounce them illegal. If they are legal, no man will interpose to hinder the amusements of the lower order of the people, no more than they can of the highest order. Bull-baiting under certain circumstances, I do confess is legal ; that is, if a bull is bait for the purpose of making the flesh tender, and brought to a proper place where the public cannot receive any injury, such would be innocent and legal ; but I am very sorry to find, that an annual custom of doing so, of taking the bulls from the owners, breaking the gates of persons' enclosures, and other acts of violence ; taking the circumstances together, should be considered legal. I shall hear mention an instance of the practice both in England and Ireland, of throwing at cocks on Shrove-Tuesday ; it had prevailed time out of mind ; it came at last before the late Judge Forster, he condemned it as inhuman and barbarous, far from a manly exercise ; if throwing at cocks was condemned, surely bull-baiting should be so too. A bull-bait is a most barbarous custom, and I am resolved as long as ever I have the honour of sitting on

on the bench, to discountenance it. Having declared that a meeting to bait a bull, except under certain circumstances, cannot be legal; (and it was under those circumstances which I have mentioned, that sergeant Hawkins considered it as legal.) I shall read the evidence that has been produced on the part of the prisoner. The first evidence produced was Diana M'Donell. But first, Hawkins does not put bull-baiting as a legal act; it is the reverse: he says bull-baiting may be legal, unless it be done *interrorem populi*; but it does not follow, that bull-baiting in general is a legal act, quite the contrary. I do not sit here to declare what the law ought to be, but what it is; under certain circumstances and in proper places it may be an innocent amusement. If M'Donnell deserves credit, it could not be considered as innocent; the gentleman who gave the information, acted like a good citizen; he meets the sheriff at the coffee-house by accident, he informs him what he had seen; the sheriff did right to go, but whether he acted consistent with his duty, will depend upon the evidence. A sheriff who goes to execute the law, should be cautious not to transgress; he that has the execution should be the last person to transgress the law, if he does, he ought to be punished. When I first heard of this affair I was in another country, it gave me great pain; I expressed my disapprobation of calling out the military on every occasion; but I know of no country where

where persons enjoy the liberty of amusing themselves so much as here ; and if it had not come out from Alderman Carleton, that it was impossible to collect that body which he calls the police, I should have considered the calling out the military as highly improper ; but if he could not collect a sufficient number of the police, he was so far justifiable to call out the military, but he calls for them at his own peril ; if he was not justifiable as a sheriff in acting in the duty of his office as he has done, he is guilty of murder. I will now state the question of law, and then leave it to you to consider the evidence. In every justification set up by the offender, it must appear clearly, that there was an apparent absolute necessity to occasion the homicide, else he is not justifiable ; and on that point I beseech you to turn your attention. It appears clearly that the deceased received the wound on that day by the army, under the command of the prisoner at the bar, which occasioned his death ; but, whether there was a necessity to fire the shots which occasioned his death, or not, is the question for your consideration ; if there was not a necessity for firing the shots, the prisoner has been clearly guilty of murder ; but in consequence of the stones having been thrown, the question is, whether there was an apparent absolute necessity or not ? if not, the prisoner is guilty of murder. The evidence on the part of the crown shews no apparent necessity ; if the evidence

evidence

dence for the crown deserves credit, no such necessity existed. It is not the throwing a stone or even hitting the party with it, that would make the firing justifiable, it must be that apparent absolute necessity of saving his own life, or those under his command, or to secure his prisoners; the throwing a stone, therefore, is by no means a sufficient justification, the apparent necessity must appear; you must therefore collect the evidence, and consider whether such necessity did exist or not. Patrick's evidence goes to shew that the prisoner could have no pre-concerted malice; but that is not the question; if he had not any apparent absolute necessity to give the orders, he is clearly guilty of murder. The evidence of Robinson is strongly in favour of the prisoner; he swears that the prisoner ordered the soldiers to fire over the heads of the people, and that no injury had been done in the field; it is therefore for you to consider whether the frequency of the fire afterwards was occasioned by that apparent absolute necessity, or whether there was an apparent necessity for the soldiers firing without orders. It is my duty to make one observation; the serjeant had him under his eye; he was produced as evidence for the prisoner, and yet, gentlemen, he swears that the soldiers, or any of them, never fired without the express orders of the sheriff, so that that contradicts the evidence of Robinson; the serjeant must have known better, therefore, the evidence

of the other cannot have much credit. James Jones's evidence more applies to the case for your consideration, he was present at the whole transaction; had he given the orders in the first instance to fire, I should have considered that there was not an apparent necessity, the orders were given to fire high, obviously for the purpose of intimidating. He was asked to the point on which you are to give your verdict, namely, that it was absolutely necessary to give the orders; but you are to consider whether the facts are such as to warrant those orders. I must confess that if that part of the evidence is to receive credit, it must have great weight. It cannot be inferred that he would have given those directions without that apparent necessity for doing so.

One of the J U R Y.

My lord, I don't recollect that the serjeant mentioned with which of the magistrates he was.

C O U R T.

He did not; he was not asked the question; but from the tenor of his evidence, I must suppose he was with the sheriff. James Porter swears he saw the sheriff hit with a stone in the neck; and that the mob consisted of five hundred; that, certainly, is materially

ally different from the evidence of the other persons; but a man cannot see very accurately out of his window, therefore I think it does not tend to contradict the other evidence. If John Hughs deserves credit, his evidence is very material; it shews an apparent absolute necessity for the firing, more than any of the others; he swears he saw Vance running away, and the persons following; that goes directly to the point, of the apparent necessity. The evidence of Margaret Bret goes to prove that Reddy was in the riot; but this does not appear to me to be material, whether he was in the riot or not, for if there was an apparent absolute necessity for the firing, it does not signify whether he was or not. The evidence of Mr. George William Vernon proves, that there was a cry of "powder," which appears to me as if the mob imagined the soldiers fired powder only, and that therefore no mischief could happen to them. This is the only evidence which has been produced on the part of the prisoner. As to the evidence of Blake's conversation with the prisoner, I cannot conceive that he would have told him any thing relative to the transaction: but, gentlemen, the evidence of Mr. Beresford is very particular; he swears he was at the corner of Batchelor's-lane; that there was no mob in Abbey-street; that he observed twelve soldiers and the prisoners; but it does not appear that the soldiers acted by his directions at that time. Mr. Beresford was not

at the bull-bait, nor does he say any person was killed in consequence of the shots he saw fired; he did not see the bull-bait, therefore his evidence does not go in contradiction to any part of the evidence for the prisoner: his evidence goes to prove the firing to be a most wanton act; and if no other provocation had been given but what Mr. Beresford was witness to, I should have no doubt on my mind respecting it. Mr. Beresford not being present at the bull-bait, leaves the other evidence open to your consideration: it is therefore entirely for your consideration, whether there was that apparent absolute necessity from the whole of the evidence; if such necessity did not exist, you must find the prisoner guilty of murder; but on the other hand, if there was a necessity, and that the magistrate could not do his duty without doing so, in that case, you must acquit him.

The jury having withdrawn, returned in about five minutes with a verdict, "NOT GUILTY."

COUN.

C O U N S E L for the C R O W N,

The S O L I C I T O R G E N E R A L.

Berresford Burston,	Arthur Browne,
Michael Smith,	James Harvey,
James Whitestone,	James Dawson, Esqrs.

A G E N T, Mr. G R A T T A N.

C O U N S E L for the S H E R I F F,

Mr. Serjeant Duquery,
William Calbeck, Esq.
J. P. Curran, Esq.
The Recorder.

A G E N T, Mr. A L L E N.

On the 26th, the Court having been again opened, the Solicitor General addressed himself to the Judge as follows :

MY LORD, I stand at present in a most painful situation ; I feel strongly the indulgence your lordship has already allowed me ; I am fearful to press on more of your lordship's time ; while I have the honour to wear a bar gown, or to fill a place of high honour in my profession, I shall certainly do my duty to that public, for whom I have the highest respect. The unhappy wretches whose relations and friends fell sacrifices on that day, look up in expectation, that the horrid business should be fully and solemnly investigated.—It has been so.—Your lordship, with peculiar humanity, and with the most indulgent

gent patience, has gone into a most minute enquiry ; we will not, therefore, press more upon your lordship's time—we are satisfied—I do confess, that in all my life I never paid more attention to criminal law, than I have done upon this occasion—I am fully satisfied—I will not therefore press on the trials for the three other murders, fully satisfied with the investigation on the trial for the murder yesterday.

C O U R T.

If this question had not come forward, it would have given me great uneasiness ; it required a most strict and solemn enquiry ; it has received it.—And I do declare, that the person, be him who he may, that has brought this prosecution forward, acted with great propriety, and well deserves the thanks of the public.—If it has been carried on by public subscription, it was praise-worthy, but if at the expence of a private person, it was highly meritorious.—It was a question which most certainly required an investigation.—Where a number of persons were collected in a great and populous city such as this, on such an occasion, and in the manner it happened ; the person who brought the legality of the act before the court, acquitted himself in a most praise-worthy manner, and well deserves the thanks of the public.—As to the Verdict, I think the Jury gave a very proper one ; an apparent absolute necessity having appeared, the Jury certainly were right in acquitting the prisoner.—The question has received a long and solemn investigation ; the circumstance required it ; and I say again, that the person who brought it forward, has acted with great propriety, and did his duty as a good citizen.

Mr.

Mr. SOLICITOR.

Mr. Vance has informed me, he does not mean to prosecute the unhappy men who have been in prison for two months, for amusing themselves in a manner they thought perfectly innocent.

Mr. CALBECK.

For my part, I am determined to prosecute them—Mr. Vance has handed me a note, mentioning that he don't wish to prosecute;—but I will; I am not to be put off in that manner—no, no; I am no such person; I have another client, Alderman Carleton, who desires it; and I think it a duty I owe the public.

C O U R T.

I could wish, as the other prosecutions have been declined, that this also was given up; the business has had a sufficient inquiry; and if they have been guilty, their being imprisoned for two months, is punishment sufficient.

Mr. CALBECK.

My Lord, I ask pardon—I will not.—From my situation, I have the honour of being a conservator of the peace throughout the kingdom; I am therefore determined to prosecute.

C O U R T.

Do as you please.

On

On SATURDAY the 29th,

The trial of the bull-baiters came on, for a trespass, and an assault on Alderman Carleton and Sheriff Vance; when on hearing the evidence of Messrs. Carleton, Vance, and others, the jury **ACQUITTED** them of both trespass and assault.

F I N I S.

Expt 7
3/1/09

E R R A T A.

Page 2, last line, for ond ane, *read* and one.
Page 9, last line but two, for leave, *read* lay.